

**The purpose of this report is to fulfill the requirements in House Bill 1832, Section 32 (4) from the 2001 legislative session. Specifically, this subsection states:**

“Beginning December 31, 2001, and ending on December 31, 2004, the Office of Financial Management shall review and report to the Legislature by January 1<sup>st</sup> of each year on whether the Department of Ecology has adequate funding for fulfilling the department’s responsibilities for processing applications through Water Conservancy Boards under Chapter 90.80 RCW.”

The Office of Financial Management (OFM) has reviewed the current funding level of the Department of Ecology (Ecology) related to supporting the work of Water Conservancy Boards in processing water right change applications. Information provided by Ecology and Water Conservancy Boards was the primary source of information used in developing this report. In general, both Ecology and local Water Conservancy Boards have reported that adequate funding has been provided to Ecology for this purpose. Further, if increased conservancy board workload occurs in the current biennium, Ecology has the flexibility to utilize existing water right processing resources to cover these costs.



*With special thanks to:*



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CURRENTLY, THE Department of Ecology (Ecology) has adequate funding to support the work of Water Conservancy Boards in processing water right change applications.

Furthermore, the department has flexibility in its budget to respond to any unanticipated increase in the need to provide support and training for conservancy boards. This includes reviewing and responding to any increased number of applications that conservancy boards might process.

Water Conservancy Boards have indicated they are generally receiving adequate training, technical assistance, and review of permit decisions from Ecology.

### Background

In 1997, legislation was enacted which authorized counties to establish Water Conservancy Boards. Once approved for establishment, the county legislative authority appoints members to the board. Boards may commence with reviewing water right change applications after board members have received training provided by Ecology.

Boards are authorized to accept and process applications to change existing water rights. Boards forward their records of decision to Ecology, which then has forty-five days to affirm, reverse or modify the board decision. Boards may request technical assistance and advice from Ecology when reviewing an application. Ecology also

periodically provides continuing education opportunities in the form of recommended readings, advanced training and workshops for board members. Board members may also qualify for continuing education credit by attending water law seminars or other relevant training.

In 1999, Ecology adopted rules governing the operation of Water Conservancy Boards. These rules were appealed. The outcome of the appeal was to considerably narrow the scope of boards' authority. Legislation passed in 2001 amended the conservancy board statute to clarify the scope of boards' authorities such that they can address all of the types of changes that Ecology can address. Due to this legislation, Ecology filed for adoption of an amended rule on December 9, 2002.

Twenty-One Water Conservancy Boards have been established around the state and all board members have received initial training. Appendix A provides a list of the boards that have been established to date and a summary of their decisions.

During the two-year period beginning November 1, 2000 and ending October 31, 2002, boards have accepted a total of 249 applications for change and have rendered decisions on 105 of these applications.

Ecology's 2002 *Water Conservancy Boards* report to the Legislature can be viewed on Ecology's website: <http://www.ecy.wa.gov/biblio/0211017.html>

### **Ecology's Budget for Supporting the Work of Boards**

During the 1999-2001 Biennium, Ecology was appropriated \$290,000 to provide support for the work of Water Conservancy Boards. Ecology expended most of these funds on staff (1.8 FTE) that developed operating rules for boards, provided training and technical assistance, and reviewed and made final decisions on water right change applications processed by boards.

For the 2001-2003 Biennium, this base level of funding for conservancy boards was carried forward. Additionally, Ecology received a significant new appropriation for processing water right change applications (\$6 million and 27 FTEs).

A portion of this funding was allocated to support the work of conservancy boards. In total, the Ecology spending plan for the 2001-2003 Biennium includes 3.0 FTEs and a direct cost of about \$365,000 for conservancy board training, technical assistance and review of boards' decisions.

Ecology does not anticipate that the conservancy board related workload would exceed the current level of effort and expenditure. However, if the workload does begin to exceed this level, Ecology will assign additional staff resources from its own water rights change processing staff to fill the gap.

This approach is justifiable because conservancy boards are also processing water right change applications.

### **Education of Board Members**

Ecology held 9 four-day training sessions for new board members around the state between November 2000 and October 2002, training about 47 board members and county support staff. Additional training sessions are planned for new appointees as original appointees' terms expire. Commissioners are appointed for staggered six-year terms, so training for new appointees is spread over multiple years.

Ecology expects the rate of adding new boards to diminish significantly compared to the period from 1999 through 2001. This should tend to diminish the effort required for Ecology to approve and train members of new boards. However, amendments to the law in 2001 allow a county to appoint either three or five members to a board. Previously only three members could be appointed.

If a significant number of counties were to decide to increase membership from three to five, the need for training of new board members would increase accordingly. So far, only Klickitat, Lewis, Okanogan, Thurston, and Whitman Counties have elected to increase the number of board members.

## Water Conservancy Board Funding Assessment

Ecology's conservancy board operating rules require that board members participate in at least one day of continuing education annually. Ecology intends to continue to sponsor continuing education workshops about twice yearly.

These workshops will cover any changes in statutory and case law as well as any new rules and procedures regarding water rights processing. These sessions also give board members and Ecology staff who work with the boards an opportunity to share their experiences and learning with one another.

### Technical Assistance

Amendatory legislation passed in 2001 (ESHB 1832) requires Ecology's director to assign a representative of the department to provide technical assistance to each board.

If requested by the board, the representative is to work with the board as it reviews applications, prepares records of decision and considers technical and legal factors affecting the decision. Ecology has designated the technical assistance representatives for each board.

Boards vary considerably in the amount of technical assistance they want and need from the department. So far, Ecology has generally been able to meet all technical assistance requests. One exception occurred for several months in 2002, when they were unable to meet all technical

assistance requests due to a retirement at the Spokane regional office and the need to train new water rights processing staff.

### Records of Decision Review

To date, conservancy boards have produced 105 decisions that have been forwarded to Ecology for review and a final decision. See Appendix A for details on these decisions.

Due to uncertainties regarding conservancy board authorities that were finally clarified by legislation in 2001, some boards were reluctant to become very active. Now that the law has been clarified, Ecology expects boards to increase the number of records of decision.

However, Ecology does not believe that boards will produce more records of decision than Ecology has capacity to review in the foreseeable future due to the fact that boards consist of volunteer members and do not work full time.

Additionally, boards charge application review fees ranging from several hundred to a thousand dollars, which also tends to limit the number of applicants opting to apply through boards. In contrast, the statutory fees charged by Ecology for change applications are limited to twenty dollars for a small use to perhaps several hundred dollars for a very large use.

# Water Conservancy Board Funding Assessment

## Conservancy Boards' Views

At the request of the Office of Financial Management, Ecology solicited the views of all the conservancy boards regarding whether they believe they are receiving adequate support from the department.

Ecology received responses from 15 of the 21 boards and OFM contacted three additional boards for a total of 18 responses. Those responses are provided in Appendix B. Generally the boards that responded appear to be satisfied that they are receiving adequate support from Ecology.

Two boards have raised concerns about delayed response to technical assistance requests, but newly hired additional staff should reduce this delay. In addition, any problems with boards not receiving stable or consistent assistance should

be remedied by the assignment of an individual staff contact person for each board.

## Conclusion

It appears that Ecology currently has sufficient resources available to provide the necessary training and technical assistance for conservancy boards and the review of conservancy board decisions. If the workload begins to exceed the capacity allotted to this activity by Ecology, the department has sufficient resources and flexibility to temporarily assign additional water rights staff to the review of boards' records of decision. Thus, the department should be able to avoid failing to render a final decision within the allowed 45 day time frame.

**Status of Water Conservancy Boards and  
Summary of Water Right Change Application Processing  
November 1, 2000 – October 31, 2002**

| <b>Board</b>                        | Total apps<br>accepted by<br>Boards | Records of Decision                |          |          |                       |           |
|-------------------------------------|-------------------------------------|------------------------------------|----------|----------|-----------------------|-----------|
|                                     |                                     | Approved/<br>Partially<br>Approved | Denied   | Remanded | Withdrawn<br>from Ecy | Appealed  |
| Adams<br>Established 10/12/99       | 19                                  | 4                                  | 0        | 0        | 0                     | 2         |
| Benton<br>Established 07/10/98      | 25                                  | 19                                 | 0        | 0        | 0                     | 3         |
| Chelan<br>Established 11/23/99      | 24                                  | 12                                 | 0        | 0        | 0                     | 1         |
| Douglas<br>Established 03/30/00     | 22                                  | 5                                  | 0        | 0        | 0                     | 0         |
| Ferry<br>Established 05/19/00       | 0                                   | 0                                  | 0        | 0        | 0                     | 0         |
| Franklin<br>Established 06/09/99    | 27                                  | 14                                 | 0        | 0        | 2                     | 0         |
| Grant<br>Established 09/14/99       | 23                                  | 7                                  | 1        | 0        | 2                     | 1         |
| Island<br>Established 08/06/01      | 2                                   | 0                                  | 0        | 0        | 0                     | 0         |
| Kittitas<br>Established 10/16/00    | 12                                  | 3                                  | 0        | 0        | 0                     | 0         |
| Klickitat<br>Established 07/01/99   | 15                                  | 9                                  | 1        | 0        | 0                     | 0         |
| Lewis<br>Established 07/10/98       | 7                                   | 2                                  | 0        | 0        | 0                     | 0         |
| Lincoln<br>Established 11/23/99     | 1                                   | 4*                                 | 0        | 0        | 1                     | 1         |
| Mason<br>Established 09/04/02       | 0                                   | 0                                  | 0        | 0        | 0                     | 0         |
| Okanogan<br>Established 05/12/00    | 0                                   | 0                                  | 0        | 0        | 0                     | 0         |
| Spokane<br>Established 05/05/00     | 5                                   | 3                                  | 0        | 0        | 1                     | 0         |
| Stevens<br>Established 01/25/02     | 0                                   | 0                                  | 0        | 0        | 0                     | 0         |
| Thurston<br>Established 11/17/99    | 7                                   | 7                                  | 2        | 0        | 1                     | 1         |
| Walla Walla<br>Established 10/05/99 | 13                                  | 3                                  | 1        | 0        | 0                     | 0         |
| Whatcom<br>Established 12/07/99     | 1                                   | 0                                  | 0        | 0        | 0                     | 0         |
| Whitman<br>Established 07/26/00     | 4                                   | 1                                  | 0        | 0        | 0                     | 0         |
| Yakima<br>Established 07/12/99      | 42                                  | 7                                  | 0        | 0        | 0                     | 3         |
| <b>Totals</b>                       | <b>249</b>                          | <b>100</b>                         | <b>5</b> | <b>0</b> | <b>7</b>              | <b>12</b> |

\*These numbers reflect decisions made on applications accepted by the board in the previous reporting period.

### Responses from Conservancy Boards

In connection with this report to the Legislature, the Office of Financial Management directed the Department of Ecology to solicit responses from water conservancy boards on their perspectives regarding the adequacy of technical support provided by the department. Following are the responses received by the Department of Ecology from 15 of 21 water conservancy boards. In addition, OFM called Benton, Franklin, and Grant Counties to solicit responses for these questions. These counties had completed decisions, but had not responded to the emailed questions.

All conservancy boards were asked to respond to the following questions for this report.

“ESHB 1832 requires the state Office of Financial Management (OFM) to report to the Legislature on water conservancy boards funding. As part of that report, OFM has asked Ecology to solicit some information from the boards. Please provide your feedback regarding the following:

- a. Has Ecology provided adequate staffing for water conservancy boards to fulfill their responsibilities associated with processing applications? This includes training, technical support, and application processing.
- b. Please explain your answer to question "a".”

The responses provided below are unedited responses from each Board.

#### Adams County

Training-while adequate, timing has not always been at the most opportune times  
Technical Support-Personnel changes have resulted in minor delays, however support has been acceptable

Application processing-has been acceptable

Gary De Vore

Benton County – Darryll Olsen’s response to OFM’s phone call. Adequate training, technical assistance and review of decisions. He estimates that Ecology provides a total of 3 staff days to Benton County for technical assistance.

#### Chelan County

Yes, the DOE has been extremely supportive of the Chelan County Water Conservancy Board and its operations. Staff always respond in a timely manner to information requests and assist the Board in their understanding of the nuances of the law so that we

may make valid and informed decisions. The DOE has also been very good at keeping the Board informed regarding changes in the law and regulations, and recent court decisions, as they affect the Boards operations, as well as scheduling timely training sessions.

### Douglas County

Yes, DOE has provided adequate training and assistance for the Douglas County Water Conservancy Board. Our questions are answered quickly, either by phone or email. Sufficient training has been provided. The training should be of a useful practical nature - the Commissioners do not want to go to training where they discuss goals and philosophical ideals.

### Ferry County (The response came in the form of a faxed letter)

Dear Janet:

This letter is in response to your request for feedback on Ecology's training, technical support, and processing:

The Department of Ecology has provided us with a wealth of information in training and continues to support the training needs of the water conservancy board. They take great care in selecting training sites located in convenient locations for the board volunteers.

On technical support, the few times I have needed technical support, there has been a wealth of information provided by the Eastern Washington Dept. of Ecology.

Regarding the processing assistance, our small board has yet to process an application for change.

Please feel free to call me if you have any further questions at (509) 779-4434.

Pat Hamilton, Board Chair

Franklin County – Mark Nielson's response to phone call from OFM. Adequate training and application processing. Approximately eight months ago, Ecology's technical assistance response was slow enough to delay processing of applications. Not sure about response time now since Ecology has hired new processing staff.

Grant County – Robert Rolfness' response to phone call from OFM. Adequate training and application processing. Currently, technical assistance requests can take up to one month to be responded to. Five additional water rights processing staff have been hired and should reduce this time delay after they are fully trained.

### Island County

THE ISLAND COUNTY WATER CONSERVANCY BOARD IS, IN GENERAL, SATISFIED WITH THE ASSISTANCE IT HAS RECEIVED FROM THE STAFF OF THE DOE, BOTH AT HEADQUARTERS AND IN THE REGION.



THE STAFF REVIEWED A DRAFT ROE THE BOARD PREPARED IN RESPONSE TO A CHANGE APPLICATION FILED BY THE SILVER LAKE WATER CO. THE STAFF MADE SOME SUGGESTED CHANGES WHICH TRIGGERED THE INVOLVEMENT OF THE APPLICANTS ATTORNEY. THE DETAILS WERE NEGOTIATED BETWEEN THE ATTORNEY AND DOE . SOME OF THE DETAILS WERE INCLUDED IN THE BOARDS ROE.

William Attwater

### Klickitat County

Klickitat County Water Conservancy Board (KCWCB) would like to report that the Washington State Department of Ecology has done an excellent job of providing technical, legal and procedural training. The KCWCB works primarily with the Central Regional Office in Yakima Washington, Dan Haller P.E., has been very helpful in providing technical assistance and guidance. The board and staff have received technical and procedural training from Janet Carlson and legal training from Maya Bellen. The board has never been denied information and or assistance when requested. All applications submitted have been processed in a timely manner.

In summery the board is very pleased with the training and assistance received from Washington State Department of Ecology.

Richard T. Beightol

Chairman, Klickitat Water Conservancy Board

Lewis County - No response

Lincoln County - No response

### Mason County

Janet; Sorry for the delay in responding. As the Mason County Board has yet to get formally underway with the processing of applications, we have no way of answering this question. Certainly, in the view of the Mason County Board, the quality of the initial 4-day training provided by Ecology left nothing to be desired. That's the best we can do for you at this time. Happy Holidays!!!

THX: Don Melnick

### Okanogan County

Yes, Ecology has provided all of the technical support our Board has needed. Our board is still in it's creation stage and has not received a formal application as of yet so we have no experience in support for processing applications.

Don Skillingsstad

As the Okanogan Co Water Conservancy Board has just finally got organize this month and plans to start receiving application later this month, most of my contact with Ecology has been at the training class which was very good. - Nim Titcomb

### Spokane County

Hi Janet

The Spokane Office of DOE has provided our Board with excellent assistance as needed and has been very supportive.

Doug

Chairman, SCWCB

### Stevens County

In answer to your questions:

- a. Yes. To date, Dept. of Ecology has provided the training and needed materials requested by the Stevens County Water Conservancy Board (SCWCB).
- b. Every time we have called, e-mailed or talked in person with the Dept. of Ecology staff assigned to assist in the Water Conservancy Board Training and Assistance, the Stevens County Water Conservancy Board has received timely responses and the information necessary to complete the tasks involved. Our Board has yet to make a decision on any applications, as we are just now completing our Operating Procedures and Information Fact Sheets to officially open for business. As of December 16, 2002, the Stevens County WCB officially opened for business.

### Thurston County

Short answer is yes. The boards receive adequate training, require CLEs, and receive needed guidance upon request. However, without oversight responsibilities from Ecology, the boards would be severely limited as far as guidance (which would lead to dismay amongst the board, and, thus, stall decisions).

Jon Hare

### Walla Walla County

The Walla Walla board has been provided more than adequate support from the Eastern region office as well as local Walla Walla Ecology staff. We receive timely support for tracking numbers and publication review as well as answers to technical questions. We are very happy with the support we get from the Eastern region office.

Whatcom County - No response

Whitman County

Hello Janet,

I will answer for the Whitman County WCB for this year since I filled out the earlier form.

a)--YES

b)--I was able to get all the information that I needed on a timely basis to do the work of the Board. We were sorry that we could not get a DOE rep. to our meetings, but it wasn't necessary for this year's work. If we have a number of applications to process, then I think it would be important to have a DOE person at the meeting to guide us around some pitfalls that may not be so obvious.

Tracy Eriksen

Kittitas and Yakima County

Well on behalf of the Yakima and Kittitas Counties.

Support from the Department of Ecology has come in different forms. With the addition of Dan Haller, it has been improved, prompt and available either by e-mail, phone or direct contact by my Board members.

Dan responses are always professional and helpful. It would be an added bonus to have a representative at our monthly meetings, but we understand with time commitments that may not be possible.

Yakima and Kittitas are fortunate that the location of the Central Region is located in Yakima.

Sylvia E. Cervantes (NOTE: Sylvia supports both the Yakima and Kittitas County boards.)

Clerk of the Board

Yakima County Water Conservancy Board

Yakima County

As a newly appointed alternate, I was generally pleased with the 32-hour training I received in November, and am looking forward to the January training. Check with me again in next year regarding assistance in processing applications.

Thanks,

Jeff Stevens, Yakima County WCB